

***Village of Barrington
Zoning Board of Appeals
Minutes Summary***

Date: February 3, 2004

Time: 7:00 p.m.

Location: Village Board Room
200 South Hough Street
Barrington, Illinois

In Attendance: Patricia Pokorski, Chair, Zoning Board of Appeals
Robert Henehan, ZBA
Ryan Julian, ZBA
Bruce Kramer, ZBA
Victoria Perille, ZBA
Peg Moston, ZBA

Staff Members: Jeff O'Brien, Acting Senior Planner
Erin Emerick, Recording Secretary

Call to Order

Chairperson Pokorski called the meeting to order at 7:00 p.m.

Roll Call noted the following: Patricia Pokorski, Chair, present; Ryan Julian, present; Bruce Kramer, present; Peg Moston, present; Victoria Perille, present; and Robert Henehan, present. There being a quorum established, the meeting proceeded.

Chairperson's Remarks

Ms. Pokorski stated there were none.

Old Business

ZBA 03-15 Stevens Residence (643 South Cook Street)

Petitioners: Jarrett & Jeannie Stevens, Owners; Linda Grubb, Architect.

Ms. Pokorski stated they are requesting a variation on their property. She swore in anyone giving testimony at the meeting.

Ms. Jeannie Stevens, 643 S. Cook St.

Ms. Stevens stated that they are requesting a 2 variances, height and setback for garage. She stated that they are requesting 2-story garage with 2nd story for storage, the width setback is so that they can have workroom in back of garage and get 2 cars in there and have some extra space. There will be a staircase in back so that is why they asked for 2 more feet in the back.

Ms. Pokorski asked if there were a number of setbacks being requested.

Ms. Stevens said just the two.

Ms. Moston asked how many feet the proposed garage is off the back.

Ms. Pokorski said that the proposed setback off the required rear yard is 4 feet where Zoning Ordinance requires 7 feet, variation of 3 feet, prop building height is 17 ½ feet where Zoning Ordinance requires 14 feet, variation of 3 ½ feet.

Mr. O'Brien stated there are 2 variations being requested. He noted that the home is in Historic Preservation Overlay District. He noted that the ARC approved the plans, and that they were in support of height variation for garage. The ARC felt that additional height matches the home and is in keeping with the character of the neighborhood. Mr. O'Brien stated that the maximum height allowed by the Zoning Ordinance is 14 feet. The proposed variation is 17 ½ feet. Mr. O'Brien stated that the garage meets all setbacks except for the 2 feet on southwest side of garage, that portion must meet the side yard setback of 7 feet from property line. The proposal meets east setback of 5 feet. He noted that Staff finds that the historical character of the neighborhood warrants the height variation since it is in keeping with the style of roof pitches in the neighborhood. Staff does not believe there is hardship for the setback variance. Mr. O'Brien stated that the garage is 27 feet in depth and the lot would allow for a 25-foot deep garage with out a variation. Staff believes 25 feet in depth is sufficient since the standard two-car garage is between 22 and 24 feet deep. Mr. O'Brien noted that staff finds that current placement of garage on property allows for garage above industry standard. Staff recommends approval of height variation and denial of setback variation.

Ms. Moston asked if setback is on west side of building.

Mr. O'Brien said actual encroachment is happening on southwest corner of building.

Mr. Julian asked if Mr. O'Brien could show the encroachment on the diagram because it is a little confusing.

Mr. O'Brien showed documents on screen.

Mr. Kramer asked if dotted line is existing garage and solid area is proposed garage.

Mr. O'Brien said yes.

Mr. Kramer asked where the area of setback encroachment occurs.

Mr. O'Brien showed where setback line goes on drawing.

Mr. Kramer stated there are no problems on side or rear setbacks.

Ms. Perille asked why the whole strip is not encroaching on the setback.

Mr. O'Brien stated that in the rear 30 feet of yard the garage can be 3 feet of side and 5 feet of rear property line. The plans are currently meeting 3 foot setback, but there is a portion of the garage in front of rear 30 feet and by ordinance they must be 7 feet off the side property line.

Mr. Julian stated that basically back 30 feet of rear yard is set up for structures, but once you come in front of that, it is supposed to be open space, which the petitioners are encroaching on.

Mr. Kramer asked if stairway was in back of garage.

Ms. Stevens said yes.

Ms. Moston asked what importance precedence plays in these kinds of decisions.

Mr. O'Brien said that precedence does not matter. He stated that by state law, each variation is reviewed on its own merits. The Staff Reports do not take precedence into account. The ZBA and the Board of Trustees are not supposed to take previous or future situations into account. Staff's position is that granting a variation will never set precedence.

Mr. Julian said he thinks it is important to be consistent, so that people are not surprised when the ZBA makes their recommendation. He stated that he wants people who are building to know where the ZBA will be coming from. Mr. Julian stated that he thinks this will help people understand how the ZBA and the Village approach things.

Ms. Pokorski stated that she does not completely agree with that point of view. She stated that the point of a variance is that they help deal with the inconsistencies between the Zoning Ordinance and the real world. She thinks this project is a good thing.

Mr. Julian said that the height variance so that something fits in the Historic District is a good thing. He stated that he is not fond of additional encroachments, particularly when they occur on perimeter of the property without some compelling reason. Mr. Julian stated that he is not seeing that in this case.

Ms. Moston asked what their reason would be for consideration of granting this variance.

Mr. Kramer asked if the petitioners have considered alternatives.

Ms. Stevens said their property is at the top of the hill. Part of the reason they want to place the garage in this location is because of the way the property slopes.

Mr. Stevens said the other reason they are going longer and wider is because of stairwell in back. He noted that they want it to be a good, dry storage space. Mr. Stevens stated that because this area has to fall in the back of garage, they need a variation of 2 feet for the garage.

Mr. Kramer asked if size of the garage was only because of the stairway.

Mr. Stevens said yes.

Mr. Julian asked if the garage were 2 feet shorter, would fit within the zoning regulations?

Mr. O'Brien said yes, it would not need the side yard setback.

Mr. Julian asked if the garage were moved 3 feet to North it would not require setback.

Mr. O'Brien said yes.

Ms. Stevens said the reason they did not do that was because it would encroach on their yard space and require a significant turn in driveway.

Ms. Pokorski said they could adequately do what they want to do by making garage shorter.

Mr. Henehan said if garage were shorter, stairs would come forward. He noted that he thinks the petitioner could get 2 full size cars on both sides. Mr. Henehan noted that the extra 2 feet are optional. He stated that he does not think there is real hardship in this case. Mr. Henehan stated they would not need storage under stairs because it would all be on 2nd floor.

Mr. Stevens stated that it correct. He stated that they want to maximize work space, though.

Mr. Julian said height variation is fine, but he is not in favor of the setback variation.

Ms. Moston said that with work done on Cook St, the overall project looks great. She noted that the zoning rules are for a reason, but she thinks the garage is nice building, thinks it is positive. She asked if the petitioners had a basement.

Ms. Stevens said part of it is useable.

Ms. Moston said she is torn. She stated that she does not think there is a hardship.

Ms. Perille said it is just small corner, but looking at evaluation criteria, she does not think it meets the standards.

Mr. Kramer said that the slope of yard might be a factor.

Ms. Perille said shortening length of garage would avoid slope of yard.

Mr. Julian does not find the slope of the yard to be a compelling argument. He stated that he thinks there are other solutions that would fit within the Zoning Ordinance. He stated that he thinks that the other solutions might carry baggage, but so does this one. He noted that this proposal has encroachment into the open yard area and that other options would have encroachment into the side yard area. Mr. Julian stated that he does not think this proposal merits a variance.

Ms. Pokorski asked the petitioners if they sat down with their architect to come up with a rebuttal.

Mr. Stevens said they understand the Board's concern. They are putting a lot of work into the house and want to also build a really nice garage.

Ms. Stevens said their home is not historic home, but they are in Historic District, now it is an eyesore; and they want to help the Historic District by improving the look of their home.

Ms. Pokorski asked for a clarification on the size of encroachment area.

Mr. O'Brien said that the area is 2 feet by 3 feet.

Ms. Moston said that encroachment towards the neighbor's property bothers her, but this is 6 square feet into their own property and the Board is not setting a precedent.

Ms. Pokorski said the encroachment is minimal.

Mr. Julian said that if they do not get the setback variation, they will still build a garage.

Ms. Moston said her theory is that petitioners are spending money to improve their home. She asked if the Village is making it difficult just to be difficult. She stated that she does not think setback variation takes away from the future use of the land.

Ms. Pokorski stated that she does not think it creates even a minimal harm to the neighborhood. She stated that she thinks it is small encroachment and that she is inclined to grant the setback variation.

Mr. Henehan said Zoning Board's job is to support the Zoning Ordinance. He stated that the petitioners need to show why they have to have this garage. He noted that even 25 feet for a garage is a good depth for a garage.

Ms. Pokorski said yes and no, the Board needs to decide if the petitioner can get variance from Ordinance. She stated that the Zoning Ordinance does not need to be applied strictly in all cases.

Mr. Julian said that consistency is pro-growth, following the rules. He stated that architects should follow the Zoning Ordinance and build within its limits.

Ms. Pokorski said that is what variances are for.

Mr. Julian said that variations are for compelling hardships. He stated that he does not see any hardship here.

Mr. Henehan said they are only asking for 2 feet because they want a workbench, someone else might want more of an encroachment.

Ms. Pokorski said they do not have to worry about that precedent.

Ms. Perille said they can still have desirable garage if 2 feet are cut out. She stated that she agrees that the encroachment is small and only in the petitioner's yard, but she thinks they can still do build the garage without the extra 2 feet. She stated that she does not see a hardship.

Mr. Henehan said it is generous garage.

MOTION #1: Mr. Julian moved to recommend approval of the height variation, adopting staff's findings of fact as the Zoning Board of Appeals, to the Board of Trustees. Mr. Kramer seconded.

Roll Call: Julian- yes, Kramer- yes, Moston- yes, Perille- yes, Henehan-yes, Pokorski-yes. Motion carries: 6-0.

Ms. Pokorski said arguments can be made under standard #2 - Unique Physical Condition - regarding the grade issue. She stated that she thinks denying the setback variation is a denial of substantial rights

Mr. Julian asked how big the slope difference is between the locations of the garage. If they had to construct garage is as it is now, if they had to move it over 3 feet, what is grade difference.

Mr. Stevens said the grade change is right in the middle of the lot. He stated that the change in grade is about 2 feet from south to north on the lot.

Mr. Julian said that the 2-foot difference is where the wall would meet the ground.

Mr. Stevens said they have very narrow driveway, reason they want the garage to be where it is proposed is because of backing out. He stated that in the proposed location they can pull the car straight in and straight out.

Mr. Julian stated they have about 30 feet to make that adjustment.

Mr. Stevens said because of the way the lot works, the more they move it to the north, the less yard space they have. He stated that they want to keep the garage as far to south side of the lot as they can. Mr. Stevens noted that they have very awkward backyard.

Mr. Julian stated he is just trying to understand the possibilities.

Mr. Kramer asked how the neighbor feels about the side yard setback variation.

Ms. Stevens said neighbor is completely in favor of the variation.

Mr. Henehan said if the garage was moved to north, then there is almost no restriction on its size.

Ms. Stevens said then the garage would be in the middle of the yard and they would lose a lot of lawn space.

Ms. Moston thinks that having yard space is important. She stated that she agrees with the petitioners on a lot of issues. She stated that she also agrees with Mr. Julian's point about consistency, but she does not think the petitioners should move the garage to the north.

Ms. Pokorski agrees with Ms. Moston's comment, but she does not think that moving the garage to the north is the only solution.

Mr. Julian said that is one solution, with baggage, making it shorter is another solution, but it also has baggage.

Ms. Moston asked if the petitioners what would happen if they shortened the garage. Are they just losing work space?

Mr. Stevens said yes. He stated that they are trying to have as much storage space in the garage as possible. He stated that they want a staircase wide enough to get up to the second floor. This would require a 3 1/2-foot stairwell).

Ms. Pokorski said she does not see the harm in this situation.

Mr. Julian said he does not think they grant variances because there is no harm, but they should grant them for positive reasons.

Ms. Pokorski does not think there is viable way to get extra footage they want. She stated that when the Board weighs the harm versus the value to the petitioners' plans to improve property, she comes out with little harm in granting the setback variation.

MOTION #2: Mr. Henehan moved to recommend denial of the side yard setback variation, adopting staff's findings of fact as the Zoning Board of Appeals, to the Board of Trustees.. Mr. Julian seconded.

Roll Call: Julian- yes, Kramer- no, Moston- no, Perille- yes, Henehan- yes, Pokorski- no. Motion fails for lack of majority.

Mr. O'Brien said the ZBA can make recommendation to approve, approve with conditions, or deny.

Mr. Kramer reiterated that the Zoning Ordinance is not set in stone, otherwise ZBA would not be there. He stated that he thinks the Board needs consistency, but they have to look at other factors also. Mr. Kramer stated that h thinks that there is a small encroachment involved with this project.

Ms. Perille said that some of their reasoning for denying a previous petition for very large garage is that the petitioners did not have the right lot for the proposal. She stated that if 2 feet get cut of the garage, the petitioners are not losing much. She stated that without the 2 feet it will be a standard garage, she thinks that the petitioners are looking for 3 car garage. Ms. Perille stated that this is a smaller Village lot and its size restricts what can be built on it.

Ms. Pokorski said the petitioners are encroaching on themselves.

Mr. Julian said reason for zoning laws is to provide certain kinds of open space in the Village. Because of other people in the Village, property owners cannot just do whatever they want with their property. Mr. Julian noted that one thing he thinks is important is that there are a lot of architects to design things in Village. He stated that he wants to give them some consistency for how to design projects in the Village. Mr. Julian stated that with planning and creativity, property owners can do a lot within the rules.

Mr. Stevens said they are probably only going to build once and want to make it the best they can.

Mr. Julian said that 25-27 feet of depth is pretty generous for a garage. He stated that he does not see compelling reason for the variance. Mr. Julian stated that he thinks a 25-foot garage is good solution.

Ms. Stevens said that she appreciates that opinion. She noted that their architect is Linda Grubb who helped write Zoning Ordinance. She noted that Ms. Grubb felt the variation was the best solution. They went with the depth so as to not encroach on the neighbors, but they will encroach a little on their own yard.

Ms. Pokorski said this project is not a hardship on the neighbors; she thinks that there are not compelling reasons not to grant the variation. She stated that she wants to encourage good growth in community. Ms. Pokorski stated that she thinks the ZBA cannot create consistency, people will always want to do things that are inconsistent with the code.

Mr. Julian said that he is searching for a reason more than that the petitionres just want the extra 2 feet.

Mr. Henehan said that they are encroaching upon neighbors by going closer to them than the code allows, even though they are not on the neighbor's property.

Mr. Julian said it is encroachment of space, not just on themselves. He noted that the neighbor has same setback requirements.

Mr. Henehan said that last time they re-wrote the Zoning Ordinance they increased the setbacks.

Ms. Perille said she is a little on the fence.

Ms. Moston asked the Board how often they get cases with true hardships.

Mr. Julian said if they do not want to have the side yard setbacks, the ZBA should go to the Board of Trustees to change the Zoning Ordinance.

Mr. Henehan said all they can do is make a recommendation to the Trustees.

Ms. Moston said their compelling reason is to maximize the use of their property, which is all anyone asks for.

Mr. Julian said sometimes they have asked for garages that would actually fit a car, etc.

Mr. Stevens said that industry standard for a garage is 24-25 feet of depth, and then they added the stairwell.

Mr. Henehan does not see the stairs as being a problem. He noted that one side of the garage might be 22 feet deep because of stairs.

Ms. Stevens said she respects their opinions, but noted that the 2 feet is compelling to the petitioners, which is why they went through the process to ask for the variance.

Ms. Pokorski said she does not think anyone is changing their vote. She asked Staff if the petitioner can take a recommendation to the Board of Trustees as a tie.

Mr. O'Brien asked if they could take a short break so he could review the provisions in the Zoning Ordinance.

Ms. Pokorski made recommendation to just move this case to the Board of Trustees, given that there is an even number of ZBA members and they have an unbreakable tie.

Ms. Perille asked about the actual size of the property.

Mr. O'Brien said it is approximately 55 feet wide by 130 feet. Standard lot is 60 feet wide and 7500 sq feet total (60 by 132).

Ms. Perille asked if the front yard setback is in compliance.

Mr. O'Brien said yes. He stated that the house is actually closer to street than would normally be allowed due to the average setback on Cook Street.

Mr. O'Brien stated that he would recommend that the ZBA make another motion for approval and if it is a tie, they can send it to the Board that way. He noted that the circumstance of having only 6 members would justify that decision.

Mr. Julian said it makes sense to put both of the motions for approval and denial forward.

Mr. O'Brien proposed to do recommendation for approval, if that is tie, make motion to send to Board of Trustees without an approval or a denial.

MOTION #3: Ms. Moston moved to recommend approval of the side yard setback variation as requested. Mr. Kramer seconded.

Roll Call: Julian- no, Kramer- yes, Moston- yes, Perille- no, Henehan- no, Pokorski- yes. Motion fails for lack of majority.

MOTION #4: Mr. Julian moved to make no recommendation to the Board of Trustees due to a lack of majority vote for the side yard setback variation associated with ZBA 03-15. Mr. Henahan seconded. Roll Call: Julian- yes, Kramer- yes, Moston- yes, Perille- yes, Henahan-yes, Pokorski-yes. Motion carries: 6-0.

New Business

ZBA 04-01 Barrington Area Historical Society – Appeal (Appeal of the Building Official’s determination) –
CANCELED HEARING

Approval of Minutes

January 7, 2003 minutes: Ms. Pokorski said she edited these minutes. She suggested that she and Mr. O’Brien go over the changes and vote on approval at the next meeting.

Mr. O’Brien said that the copies of the minutes that the Board has does not include Ms. Pokorski’s changes.

December 2, 2003:

Ms. Pokorski asked if anyone had any changes to make to these.

Mr. Henahan noted that on page 2 the minutes say that Mr. Kramer commented but did not say what he commented on, so they could just take that out.

January 6, 2004:

Ms. Perille noted on page 5 it should be Ms. Grubb instead of Mr. Grubb.

MOTION: Ms. Moston moved to approve January 6, 2004 and December 2, 2003 minutes with corrections as stated. Mr. Henahan seconded. Voice vote recorded all ayes.

Planner’s Report

Mr. O’Brien stated that the Historical Society Appeal (ZBA 04-01) has been cancelled. He stated that it is on the agenda because the Village attorneys thought that because letters were sent to surrounding property owners the item should be on the agenda. Mr. O’Brien noted that there was nothing on agenda for next month’s meeting at this time.

ADJOURNMENT

MOTION: Mr. Henahan moved to adjourn. Ms. Perille seconded. Voice vote recorded all yes. The meeting was adjourned at approximately 8:20 p.m.

Respectfully submitted,
Erin Emerick, Recording Secretary

Patricia Pokorski, Chairperson
Zoning Board of Appeals